

**The Internal Revenue Service Should Modify
Its Federal Tax Lien Practices to Treat
Taxpayers More Equitably and Better Protect
the Government's Interest**

June 2002

Reference Number: 2002-30-106

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

June 5, 2002

MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED
DIVISION
COMMISSIONER, WAGE AND INVESTMENT DIVISION

David R. Denton

FROM: (for) Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - The Internal Revenue Service Should Modify
Its Federal Tax Lien Practices to Treat Taxpayers More
Equitably and Better Protect the Government's Interest
(Audit # 200130004)

This report presents the results of our review of the Internal Revenue Service's (IRS) policies and procedures for lien filing. The overall objective of this review was to determine whether the IRS' policies and procedures for lien filing protect the Government's interest and encourage compliance while ensuring fair and equitable treatment of taxpayers.

In summary, over the past 3 fiscal years, the IRS closed as excess inventory over 2.1 million taxpayer accounts, totaling \$13.4 billion, without collecting the taxes owed. In addition, the accounts in the Collection function's unassigned inventory, called the "Queue," increased from 933,000 to 1.7 million unpaid tax periods, totaling \$18.5 billion, at the end of Fiscal Year 2001. One way that the IRS can protect the Government's interest in these cases is to file liens against the taxpayers' property.

However, the IRS is not filing liens against a substantial number of these delinquent taxpayers. By not filing liens on the growing number of accounts being left in the Queue or closed as excess inventory, the IRS is not protecting the Government's interest or providing a viable incentive for taxpayers to arrange to pay their outstanding tax liabilities, either through full payment, installment agreements, or offers in compromise.

The IRS' inability to continue collection efforts on the growing number of delinquent accounts, combined with its not filing tax liens against the delinquent taxpayers, could result in billions of dollars going uncollected and may reduce taxpayer compliance. In addition, the IRS is not treating taxpayers equitably with its administration of lien filing

policies. By repeatedly changing its internal guidelines and by providing Collection function staff with considerable subjectivity in the process of determining whether to file liens, the IRS does not treat taxpayers consistently.

Our review of open and currently not collectible cases from the Collection Field function (CFf) showed that, while liens have been filed to protect the Government's interest in a high portion of the CFf cases meeting the present filing criteria, improvements can be made. Specifically, CFf staff are not always filing liens in accordance with Internal Revenue Manual (IRM) guidelines and are interpreting national policies in a variety of ways. Also, Collection function managers are not effectively using the Integrated Collection System/Entity Integrated System (ICS/Entity) to monitor lien filing determinations on active cases assigned to revenue officers.

We recommended that the IRS clarify lien filing guidelines and include discussions about them in group meetings and Continuing Professional Education sessions. Collection group managers should be instructed to effectively use the ICS/Entity reports to identify open cases for which liens have not been timely filed. Furthermore, the IRS should develop a more uniform lien filing policy that will better protect the Government's interest in the billions of dollars in unpaid accounts that are left inactive in the Queue or closed due to excess inventory.

Management's Response: The Commissioner, Small Business/Self-Employed (SB/SE) Division, and the Commissioner, Wage and Investment (W&I) Division, agreed with all of the recommendations in the report. The SB/SE Division will be revising Automated Collection System (ACS) procedures to conform with the provisions in both the lien handbook and CFf procedures for currently not collectible accounts that were closed unable to contact or unable to locate the taxpayer. Management of the two divisions will issue a memorandum to CFf and ACS employees and managers advising them to review lien filing criteria, and suggesting that the managers discuss lien filing criteria and guidelines with their employees. The memorandum will also emphasize to managers that they should use current information in the IRM, as well as the ICS/Entity lien filing indicators and determination due dates, when they assess employee case management, and that timely lien determinations and filings are essential components of case management. Finally, the SB/SE Division, in conjunction with the Research Division, will develop study components that will consider the various parameters which would make lien filing more effective. They will also conduct a study to provide a better costing model for future lien filing so they can then develop a policy based on total costs of lien filing and anticipated compliance benefits.

Office of Audit Comment: Although SB/SE Division management agreed with Recommendation 1.a., the proposed corrective action does not fully address the recommendation.

Management's comments have been incorporated into the report where appropriate, and the full text of their comments is included in Appendix VIII.

Copies of this report are also being sent to the IRS officials who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions or

Gordon C. Milbourn III, Assistant Inspector General for Audit (Small Business and Corporate Programs), at (202) 622-3837.

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Background

A federal tax lien is created by statute¹ when (1) the Internal Revenue Service (IRS) has made an assessment² and given the taxpayer notice of the assessment, stating the amount of the liability and demanding payment and (2) the taxpayer has neglected or refused to pay the amount due. Federal tax liens are not valid against certain creditors until the Notice of Federal Tax Lien has been recorded in the county or state in which the taxpayer has property.

Filing a Notice of Federal Tax Lien is not an enforcement action like a levy or seizure³ because it does not take any assets or deprive the taxpayer of the use of the assets. The Notice of Federal Tax Lien simply protects the Government's interest by publicly recording the debt owed by the taxpayer as a notice to possible future creditors. The lien attaches to property currently owned and to property the taxpayer may acquire in the future. Therefore, a lien may be filed even though specific assets have not been identified. Filing a Notice of Federal Tax Lien may prevent taxpayers from selling assets with clear title or obtaining additional financing without payment of their tax debts.

Liens are filed by contact employees working in the Automated Collection System (ACS) or by revenue officers working in the Collection Field function (Cff). See Appendix V for an overview of the collection process.

As shown in Figure 1, in Fiscal Year (FY) 1996 the IRS filed 750,000 liens. Due to budgetary concerns and enactment of the IRS Restructuring and Reform Act of 1998 (RRA 98),⁴ the number of liens filed dropped to 168,000 by

¹ I.R.C., 26 U.S.C. § 6321 and 6323 (1994 & Supp. IV 1998).

² An assessment is a formal bookkeeping entry that the IRS makes to record the amount of tax, penalty, and interest charged to a taxpayer's account. Taxpayers essentially assess their own tax liabilities when they file an original or amended tax return. Also, the IRS may assess additional tax liabilities through various compliance efforts, such as computerized checks or examinations of tax returns.

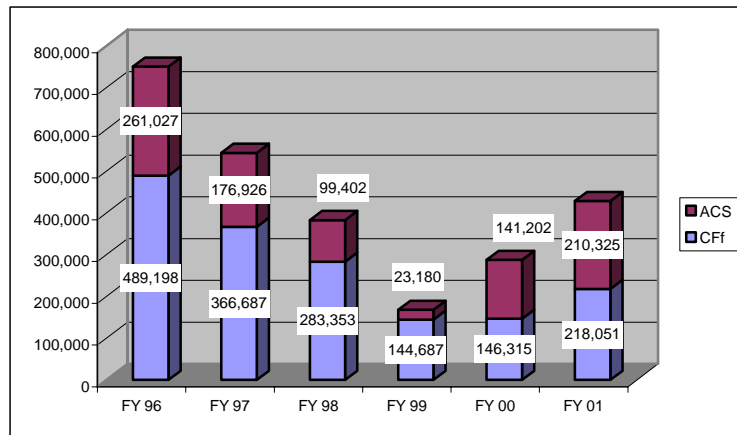
³ A levy is used to take possession of funds a third party owes the taxpayer (such as wages, funds in a bank, or accounts receivable). A seizure is used to take possession of property owned by the taxpayer (such as a vehicle, boat, or real estate).

⁴ Pub. L. No. 105-206, 112 Stat. 685.

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FY 1999. The number of liens filed then increased to 428,000 in FY 2001.

Figure 1: Liens Filed in FYs 1996 – 2001



Source: Collection Report 5000-23 for each fiscal year.

The mission of the Wage and Investment (W&I) Division Compliance function is:

To fairly and effectively assist taxpayers in the determination and fulfillment of their tax obligations. By providing accurate and consistent application of the tax law, and using a risk-based approach to examination and collection, with a focus on remote disposition, we will ensure efficient, equitable, and effective taxpayer assistance and satisfaction.

The mission statement of the Small Business/Self-Employed (SB/SE) Division Compliance function reads:

The mission of SB/SE Compliance is to provide prompt, professional and helpful service to all customers. This focus will include increasing overall compliance and fairness of compliance programs as we study and evaluate small business needs and trends. Compliance will provide educational guidance and community outreach and apply appropriate compliance treatments based on facts, circumstances, and risk. The Compliance workforce will be empowered, flexible and accountable in providing world-class customer service.

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To that end, our review addressed the procedures the IRS uses to “apply appropriate compliance treatments,” “increase overall compliance and fairness of compliance programs,” and “provide consistent application of the tax law” with respect to lien filings.

Our review included national data analyses, reviews of selected cases, and interviews of Collection function group managers in the Atlanta, Georgia; Chicago, Illinois; and San Jose, California Area Offices. The audit began in April 2001 and was completed in December 2001. The audit was conducted in accordance with *Government Auditing Standards*. Detailed information on our audit objective, scope, and methodology is presented in Appendix I. Major contributors to the report are listed in Appendix II.

Revenue Officers Are Not Always Filing Liens or Making Lien Determinations Timely

Internal Revenue Manual (IRM) procedures state that when a delinquent account is assigned to the CFf, it should then be assigned to a revenue officer who should attempt initial contact with the taxpayer within 30 or 45 days, depending on the type of account. After initial contact, the revenue officer should, within 10 days, make a determination of whether a lien should be filed. Liens should generally be filed on accounts over \$5,000, except for taxpayers in bankruptcy, defunct corporations, deceased taxpayers without assets, and some miscellaneous other categories. Revenue officers also have discretion to not file liens if it would hamper collection of the taxes owed, there is doubt as to the liability, or forthcoming information could lead to either of the above. Decisions not to file are to be limited to these categories, and the revenue officers are to document in the case history why liens were not filed.

All cases assigned to the CFf are controlled on the Integrated Collection System (ICS). The ICS is an automated system used to reduce paperwork and record all activity on CFf investigations of delinquent accounts. The Entity Management Information System portion of the ICS/Entity Integrated System uses data from the ICS for case management, report compilation, and management information.

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The ICS generates a lien determination due date when delinquent accounts are assigned. If the revenue officer has not recorded a lien determination by this due date (by requesting a lien be filed or noting that one will not be filed at this time), or has not extended the determination date, the system gives the revenue officer a reminder notice. The ICS case summary screen for each taxpayer account also displays the status of the lien determination for each tax period, showing whether a lien has been filed or requested, the determination date was extended, a non-filing determination was made, or no action has been taken regarding a lien determination. When closing accounts as currently not collectible, the system also displays a message if any of the modules do not have liens filed. The revenue officer must acknowledge this message before continuing the closing action.

Revenue officers are not always making timely lien determinations on open accounts

Our analysis of all 184,701 taxpayer accounts assigned to the CFf as of December 2000 showed that 101,347 (55 percent) of the taxpayers did not have liens on any of the delinquent periods.⁵ Further analyses showed that 50,669 (27 percent) of these taxpayers owed \$5,000 or more and had been in inventory more than 3 months but did not have liens on any delinquent periods. See Appendix VII, Table 1, for a breakdown, by former IRS district office,⁶ showing the percent of taxpayer cases over \$5,000 and assigned for more than 90 days with no liens filed; these percentages ranged from 15 to 38 percent for the 33 former district offices.

We selected a judgmental sample of 90 cases with balances greater than \$5,000 that had been open for more than 3 months but did not have liens filed on any of the

⁵ Throughout this report, the terms “tax period” or “delinquent period” refer to each tax return period (year or quarter) that has not been paid. The terms “account” or “case” refer to the combined unpaid tax periods for the same taxpayer.

⁶ The IRS has re-organized from 33 districts into area offices, but the location codes in the computer systems had not yet been converted at the time of our review.

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delinquent periods. The 90 cases were selected equally from the 3 area offices in our review. We reviewed these cases to determine if the revenue officers updated the ICS controls to show that lien determinations had been made or that the determination due dates were extended. Our review of the case histories and ICS control data as of December 31, 2000, showed that:

- Fourteen percent (13 cases) were still in the managers' unassigned inventories, so no contacts or lien determinations had been made.
- Nine percent (8 cases) were assigned to revenue officers and lien determinations had been made (either to request liens or not file any).
- Eight percent (7 cases) were assigned to revenue officers and lien determination due dates had been extended into 2001.
- Sixty-nine percent (62 cases) were assigned to revenue officers, but no lien determinations or current extensions were documented in the ICS lien data elements. The amounts due in these 62 cases totaled \$6.5 million. Of these, 42 were business accounts totaling \$4.9 million, and 20 were individual income tax accounts totaling \$1.6 million.
 - Eighteen of the 62 cases were assigned to revenue officers but no contact had been made with the taxpayers. The lien determination due dates had expired but were not extended.
 - The other 44 cases were assigned to revenue officers and contacts had been made. In 23 of these cases, the history did not mention whether lien filing had been discussed with the taxpayers. In the other 21, the histories showed that liens were considered, but no determination was recorded on the ICS controls and determination due dates were not extended on ICS.

If the ICS lien control elements are not updated to show that lien determinations have been made or to extend the date for making a determination, the revenue officers will not

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receive reminders and the managerial reports will not accurately reflect whether the revenue officers are timely considering liens. If revenue officers do not timely consider and use tax liens as a collection tool, the taxpayers may dispose of assets without providing for payment of their Government debts, and the IRS may lose its priority against other creditors.

Revenue officers are not always making lien filing determinations when closing accounts as uncollectible

The Federal Tax Liens Handbook and the Currently Not Collectible Handbook of the IRM both state that a lien should be filed when an account with an assessed balance of \$5,000 or more is closed as currently not collectible (CNC). We analyzed CNC accounts extracted from the December 2000 TRCAT⁷ file to determine if liens were being filed on them. We identified 9,097 taxpayer accounts the CFf closed as CNC during the last 99 days of Calendar Year 2000. We excluded 4,619 cases because either the total balance due was below \$5,000 or they were closed as excess inventory or defunct corporations and, therefore, generally do not require liens. Our analysis of the remaining 4,478 taxpayer accounts showed that:

- In 67 percent of the accounts, liens had been filed on all the periods closed as CNC during this period.
- In 19 percent of the accounts, liens had been filed at some time on some, but not all, delinquent periods.
- In 14 percent of the accounts, there were no liens on any of the delinquent tax periods.

To determine why liens were not filed on all applicable CNC periods, we selected a judgmental sample of 90 cases from the 19 percent and 14 percent categories above. The 90 cases were selected equally from 3 area offices. Our selection was limited to cases closed as in-business corporations, unable to pay, unable to contact, or unable to

⁷ TRCAT (Taxpayer Service and Returns Processing Categorization) is a monthly extract from the IRS main computer files of all accounts with a balance due as of the date of the extract. Accounts are categorized for statistical analyses according to their current collection status.

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locate because IRM procedures generally require liens for these closures. Our review of the case histories and ICS control data showed that in 40 (44 percent) of these cases, the revenue officers did not update the ICS lien filing determination or state in the histories why liens were not being filed. Therefore, there is no way to determine if liens were considered or why they were not filed on these taxpayers. In 28 of these 40 cases the assessed balance due was more than \$5,000, and the balances totaled over \$1.1 million. In the other 12 cases, the unpaid balance without liens was less than \$5,000, and, therefore, the IRM does not require a reason for not filing liens to be documented in the history. However, the lien determination field on ICS should have been updated if it was a conscious decision not to file because of the low balance.

In the other 50 cases, the histories showed that liens were discussed with the taxpayers but they were not filed for a variety of reasons. In 23 of these cases the revenue officers complied with current IRM guidelines, as follows.

- In 11 cases, the total *assessed balance* due or the balance for the periods not covered by liens was below the \$5,000 IRM criteria for requiring liens. (Our case selections had been based on the *total amount* due, including accrued interest and penalties which had not yet been assessed on the IRS' main computer system. Six of these 11 taxpayers owed more than \$5,000 [ranging from \$6,156 to \$17,227] when interest and penalties were added, but the IRS' lien filing criteria is based on the assessed balance only, which was under \$5,000.)
- In 5 cases, the histories contained various logical reasons covered by IRM guidelines for not filing liens in cases for which different closing codes could have been used (such as bankruptcy or defunct corporations).
- In 7 cases, the histories indicated liens had been or would be requested, but they had not been recorded at the time of our review. (Since this review focused on the lien determinations, we did not pursue the reasons these lien requests were not completed by the computer systems.)

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In the remaining 27 cases with assessed balances totaling \$860,000 not covered by liens, there were varied interpretations of guidelines or no documented or apparent reason for not filing liens, as follows.

- In 9 cases, no equity or assets were located. However, this is not one of the reasons in the IRM for not filing liens. The value of the assets is a serious consideration when contemplating levy or seizure of the particular asset but should have no direct impact on lien filing since the lien attaches to present or future assets. Furthermore, taxpayers may have assets that were not identified by the revenue officer but may come to light if the taxpayer tries to sell or refinance property.
- In 10 cases, the histories stated the Government's interest was adequately protected (by liens filed on some of the delinquent periods). In 1 of these cases, the 1 tax period not covered by liens was for under \$5,000 and, therefore, did not require an additional lien. In the other 9 cases, the portion of the liabilities covered by liens ranged from 48 to 96 percent, leaving amounts ranging from \$5,355 to \$161,931 not covered by liens. While there is merit to allowances for judgment in this area, the current IRM does not provide for it, but instead states that liens should be filed when additional liabilities reach \$5,000.
- In 4 cases, the histories stated the balance was below the requirement or there was no requirement; however, the assessed balances in these 4 cases ranged from \$5,027 to \$6,853, and the total balances due, including accrued interest and penalties, ranged from \$6,083 to \$18,678.
- In 4 cases, the histories stated liens would not be filed but gave no reasons. The assessed balances without liens in these cases ranged from \$9,414 to \$27,975.

If liens are not filed when accounts are closed as currently not collectible, the likelihood of any future collection on the accounts is reduced. Taxpayers who could not be contacted or whose assets were not located by the revenue officers may at some time contact the IRS to settle their tax debts if

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the tax lien is affecting their ability to sell property or obtain credit.

Two reasons contributed to the ineffective lien filing determinations

We identified two major reasons that contributed to liens not being filed in the open cases and the CNC cases.

Employees have varying interpretations of lien filing criteria

Over the past several years, there have been several changes to the guidelines for lien filings. Some of the changes involved different guidelines depending on:

- The total amount owed or the amount of additional liabilities after a lien was filed on some periods.
- The type of closure, such as unable to locate or unable to contact.
- Whether the investigation identified assets to which the lien would attach.

See Appendix VI for more details of the changes in lien filing guidelines.

Changes in lien filing criteria and inconsistencies between IRM sections may have contributed to differing interpretations of the guidelines. Group managers we met with used varying lien filing criteria regarding dollar amounts and the identification of assets. For example, some managers cited amounts as low as \$2,000 or as high as \$10,000 for the lien filing criteria. Several managers advised they would not file liens unless the taxpayers or their assets were located, while others said it does not matter if specific assets are identified at the time of investigation because the taxpayer may have, or acquire, other assets.

We noted that the IRM guidelines are inconsistent for accounts closed as CNC because the taxpayers could not be located or contacted. IRM 5.12 (Federal Tax Liens Handbook), which is generally used by CFF employees, requires lien filing for CNC accounts over \$5,000 closed as unable to locate or unable to contact. However, IRM 5.19.4 (Liability Collections, Enforcement Actions), which is generally used by ACS employees, does not require lien

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filing for unable to locate or unable to contact accounts. It only states that liens should be filed for CNC accounts closed under hardship (i.e., unable to pay) conditions. This may contribute to uncertainty about the intended policy and would lead to inconsistent treatment of taxpayers.

We noted two other IRM references that may cause some inconsistencies regarding dollar amounts at which liens should generally be filed. IRM 5.12 states that if a lien has been filed on some tax periods but additional periods have been received for less than \$2,000, then an additional lien should not be filed. If the additional tax liabilities reach \$5,000, then another lien should be filed. However, IRM 5.19.4 states that if additional liabilities of \$2,000 or more are received, an additional lien should be filed only if it significantly enhances collectibility of the account. This allows more discretion and does not require lien filing if the additional liabilities are more than \$5,000, in contrast to the other section.

Revenue officers and managers do not effectively use the ICS/Entity to monitor lien filing determinations

As stated previously, the ICS clearly shows modules that do not have lien determinations, issues notifications to revenue officers when the determination due dates are reached, and displays a message if any modules are being closed as CNC without liens filed. The revenue officers in many of the cases we reviewed are apparently not paying attention to these display fields or reminders. Our review of the 90 CNC cases cited earlier showed that the ICS lien determination field was not updated for all CNC periods in 68 of the 90 cases.

The ICS/Entity system includes a standard query/report for managers and revenue officers listing delinquent accounts that do not have liens. The standard report includes all tax periods over \$5,000 that have been assigned for more than 45 days but do not have liens. The report is grouped by revenue officer and shows the date the delinquent period was assigned, the lien determination due date, and the lien indicator, which tells whether the determination due date was extended, a non-filing determination was made, a lien was requested, or the determination was never made.

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Most of the group managers we interviewed were not familiar with or did not use the lien filing and determination due date features built into ICS/Entity. The group managers generally limited lien reviews to their regular periodic sample case reviews. Eleven of the 12 managers were not aware of the standard ICS/Entity report to identify the cases without liens. Several managers said they would find such a report very useful, but they were not aware that it already existed.

We obtained the standard reports as of October 25, 2001, for each of the 12 groups included in our interviews. The reports identified an average of 163 taxpayer cases per group, with a range of 18 to 44 percent of the cases in each group, for which liens were not filed. See Appendix VII, Table 2, for the numbers and percentages for each group in our review.

Recommendations

1. The Director, Compliance, SB/SE Division, should clarify and ensure the consistency of the IRM on these issues:
 - a. Liens should generally be filed even when assets have not been identified if the individual taxpayer or entity still exists.
 - b. Liens should be filed on accounts closed as unable to contact or unable to locate by the ACS as well as the CFf.

These clarifications should point out that federal tax liens also attach to future property and therefore can be filed even if current assets have not been identified and the taxpayer may not have been located. Liens may impact the taxpayers even if they have moved or have no assets at the time. If the taxpayer is not cooperative in responding to IRS efforts at establishing contact, the tax lien may provide the stimulus for the taxpayer to establish communication in the future.

Management's Response: SB/SE Division management agreed they should file liens on accounts meeting the

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balance criterion as stated in the IRM when case investigation indicates currently not collectible is the appropriate disposition. SB/SE Division management plans to revise the ACS procedures in IRM 5.19.4 to bring them into conformance with the provisions in both the lien handbook and CFf procedures for currently not collectible accounts, including the unable to contact and unable to locate dispositions noted in b. above.

Office of Audit Comment: Although SB/SE Division management indicated they agreed they should be filing liens on accounts that meet the balance criterion in the IRM when case investigation indicates currently not collectible as the case disposition, our recommendation was for all types of case closures, not just currently not collectible dispositions. Consequently, the response does not fully address recommendation 1.a.

2. The Commissioner, SB/SE Division, and the Commissioner, W&I Division, should send messages to all CFf and ACS employees and managers alerting them to lien filing criteria and discuss current lien guidelines in group meetings and in the next Continuing Professional Education sessions.

Management's Response: SB/SE Division and W&I Division management agreed with our recommendation and will send a memorandum to CFf and ACS employees and managers advising them to review lien filing criteria. The memorandum will also suggest that the managers discuss lien filing criteria and guidelines with their employees.

3. The Commissioner, SB/SE Division, should educate managers on how to find and use the ICS/Entity standard query/report, and include instructions and a requirement in the IRM that managers use the report periodically (e.g., monthly or bi-monthly) to identify cases without liens and to discuss or share the lists with the assigned revenue officers.

Management's Response: SB/SE Division management will also include in the memorandum under Recommendation 2 above a section that will emphasize to managers that they should use current information in the

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IRM and the ICS/Entity lien filing indicators and determination due dates when they assess employee case management. They will also be asking managers who need training in the use of the ICS/Entity system to notify their immediate manager so additional training can be provided. The memorandum will also advise managers and employees that timely lien determinations and filings, where appropriate, are essential components of case management. It will emphasize that employees are expected to make timely determinations, and that managers will consider these actions when assessing employee case management performance.

From the end of FY 1996 to the end of FY 2001, the total accounts receivable due from unpaid taxes grew from \$216 billion to \$276 billion. During this same time, the dollar amount of accounts in the Collection Queue (an automated holding file of balance due accounts that were unresolved by written notices and telephone calls by the ACS) rose dramatically. At the end of FY 1996, there were 755,000 tax periods involving \$3.0 billion in the Queue; by the end of FY 1998, these had risen to 933,000 tax periods involving \$4.0 billion. At the end of FY 2001, however, there were 1.7 million tax periods involving \$18.5 billion in the Queue. During this same 5-year period, an additional \$13.5 billion in accounts were removed from Collection inventory using a special closing code for excess inventory.

With its current processes, the IRS does not have enough resources to resolve all the balance due accounts in its inventory. To deal with this, years ago the IRS created the Queue to hold cases for future assignment to revenue officers who make personal contact with taxpayers. The collection potential of each delinquent account is prioritized by computer as high, medium, or low risk, based on case type, amount, and skills required to work the case. Accounts meeting certain criteria are immediately assigned to revenue officers, while others are assigned from the Queue to revenue officers as workload permits, based on their assigned priority.

In March 1999, the head of the Collection function issued a memorandum entitled "Bringing the Collection Inventory

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into Balance with Resources – Casework Priorities and Internal Revenue Manual Deviations.” The memorandum established a hierarchy of caseload priorities for working inventories, as well as procedures to reduce inventories in those districts where inventory exceeded available resources. The memorandum authorized returning cases to the Queue and closing cases with a balance due below a specified amount as CNC (closing code 39 – excess inventory) if they could not be returned to the Queue. These cases were to be closed (referred to as “shelved”) without filing liens and without taking normal investigative actions.

Billions of dollars in shelved cases are not protected by tax liens

In the past 3 fiscal years, closing code 39 has been used to shelve 2.1 million taxpayer accounts (4.5 million tax periods) with liabilities totaling over \$13.4 billion. Figure 2 shows where the accounts were assigned when they were shelved.

Figure 2: FYs 1999 – 2001 Shelved Accounts

Function	Taxpayers	Tax Periods	Amount
Cff	110,737	345,258	\$4,482,556,142
Queue	480,968	1,138,612	4,071,720,741
ACS	1,530,162	2,970,374	4,880,437,205
Other	23	97	469,157
Total	2,121,890	4,454,341	\$13,435,183,245

Source: Collection Reports 5000-2 for FYs 1999, 2000, and 2001.

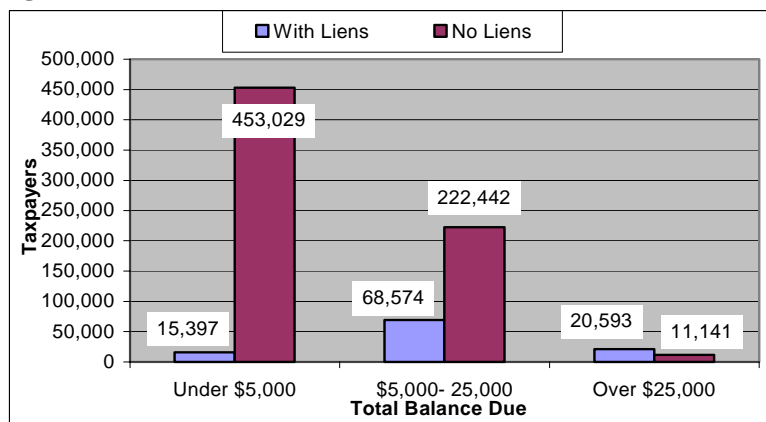
See Appendix VII, Table 3, for a more detailed analysis by year and function, showing limited use of closing code 39 during FYs 1996 to 1998, but extensive use since then.

Our analysis of 791,176 shelved taxpayer accounts on the TRCAT file as of the end of September 2000 showed the Government's interest is not being adequately protected. A total of \$3.0 billion of liabilities on 104,564 taxpayer accounts in shelved status was partially or fully protected by tax liens. However, the Government's interest was not protected by tax liens in 87 percent of the accounts (686,612 taxpayers owing a total \$4.1 billion). Figure 3 shows there were 222,442 taxpayers who owe from \$5,000 to \$25,000 (and account for \$2.1 billion of the unprotected

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liabilities), in addition to 11,141 taxpayers who owe more than \$25,000 (and account for \$853 million of the unprotected liabilities). See Appendix VII, Table 4, for more details.

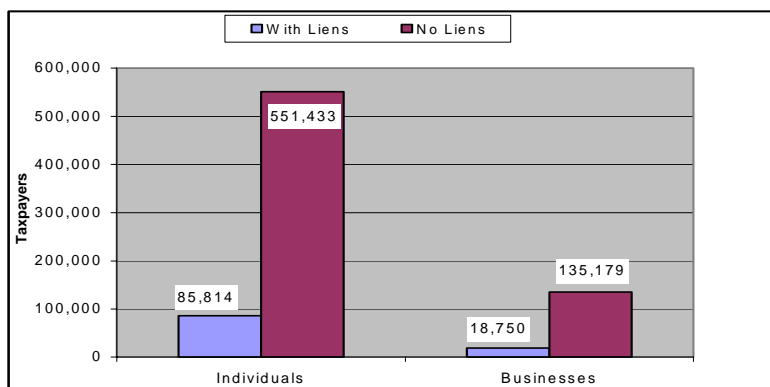
Figure 3: Strata of Shelved Accounts With and Without Liens



Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of TRCAT file as of the end of September 2000.

Of the 791,176 shelved taxpayer accounts in our analysis, 19 percent were business accounts and 81 percent were individual accounts. Figure 4 shows that 88 percent of the business accounts and 87 percent of the individual accounts had no liens filed to protect the Government's interest.

Figure 4: Comparison of Individual and Business Taxpayers with Shelved Accounts



Source: TIGTA analysis of TRCAT file as of the end of September 2000.

See Appendix VII, Tables 4, 5, and 6, for more details of the stratification of accounts with and without liens by amounts

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owed, by how recent the delinquencies had been assessed, and by individual or business accounts.

Three TIGTA reports have addressed this issue in the past two years

In August 2000, the TIGTA issued a report⁸ involving management strategies for improving the ACS. One of the issues was the systemic removal of cases from the ACS using CNC closing code 39 or transfer to the Queue, both without filing liens to protect the Government's interest. The report and the response from the IRS' Commissioner pointed out that, beginning in June 2000, the ACS was to use accelerated balance due reminder notices with more specific notification of potential lien filing for such cases removed from inventory. The IRS also began to transfer cases subject to the reminder notices to a special ACS inventory for a mandatory lien determination before the cases are removed to the Queue or shelved with CNC closing code 39.

Also in August 2000, the TIGTA issued an audit report involving CFf excess inventory closures.⁹ The report stated that:

The March 1999 guidelines do not require revenue officers to make a determination of whether or not to file a Federal Tax Lien to record the government's interest in taxpayers' property.... These procedures differ from those used to close cases not covered by the March 1999 guidelines. As a result, taxpayers subject to normal collection processing (i.e., unable to pay) have liens filed against them and could be subjected to future collection actions. However, other taxpayers (i.e., those meeting the

⁸ Management Advisory Report: Actions to Improve the Automated Collection System Should Be Taken Within a Sound Strategic Framework (Reference Number 2000-30-122, dated August 2000).

⁹ The Internal Revenue Service Needs to Improve the Development and Management Oversight of the Collection Field Function Inventory Priorities (Reference Number 2000-30-128, dated August 2000).

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*March 1999 guidelines) have no liens filed....
In addition to inequitable treatment, the
government's interest is not protected on the
accounts with no liens filed or on which no
follow-up is made.*

The Commissioner, SB/SE Division, in a response dated January 12, 2001, did not agree, stating that the RRA 98 requires an attempted contact, and there are no attempts to contact when a case is shelved. To attempt a contact on each case would defeat the purpose of allowing cases to be shelved.

However, the legal requirements of the Internal Revenue Code¹⁰ have been met in these cases by the mailing of service center balance due notices. The balance due notice demands payment and warns of possible lien filing. Sending an additional notice by the ACS or CFF prior to filing liens is not a legal requirement, but rather is an IRS practice to give the taxpayer another, more current notice of the balance due with another warning of lien filing, and with another opportunity to contact the IRS to dispute the amount due or make payment arrangements. The RRA 98 added a requirement for supervisory review of proposed lien filings to verify that a balance is due and that lien filing is appropriate. The RRA 98 also added a requirement for the taxpayer to be notified in writing within 5 days after a lien is filed – not before. Additional warnings are required before taking levy or seizure actions, but not before filing liens. These additional warnings advise the taxpayers of their rights to appeal liens after they are filed or to appeal proposed levies or seizures before they are made.

In August 2001, the TIGTA issued an audit report¹¹ concerning the IRS' writing off of taxes owed. This report stated that, when the ACS used CNC closing code 39 to reduce excess inventory from June to December 2000, liens were not filed consistently against a substantial percentage

¹⁰ I.R.C., 26 U.S.C. § 6320, 6321, and 6323 (1994 & Supp. IV 1998).

¹¹ *Letter Report: Write-off of Taxes Owed Resulted in Inequitable Treatment of Taxpayers* (Reference Number 2001-40-151, dated August 2001).

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of the taxpayers. The Commissioner, W&I Division, in a response dated September 13, 2001, stated that lien filing determinations should have been made in such cases but were not for a period of time. A computer program change was made so that, starting in June 2000, a reminder notice would be issued on all cases before automatic removal from the ACS and the cases without liens would be moved to a special inventory for a lien determination.

The response from the Commissioner, SB/SE Division, regarding CFf closures and the responses from the IRS Commissioner and the Commissioner, W&I Division, regarding ACS closures are not consistent. According to these latter responses, accounts being shelved by the ACS are to receive a reminder notice after which a lien determination will be made. However, accounts being closed by the CFf will not be treated the same. In addition, none of these responses addresses the issue of lien determinations on accounts being systemically removed from the Queue using CNC closing code 39.

Annual reminder notices are being used to prompt lien determinations in ACS

The Internal Revenue Code¹² requires the IRS to send taxpayers a notice at least annually reminding them of their tax delinquencies and informing them of the current balance. These notices are generated throughout the year for all accounts including those in the ACS, the Queue, and CNC status. The notices include a telephone number that will route responses to an ACS site. Therefore, the ACS must have staff available to handle the calls from taxpayers who respond to these reminder notices. For accounts that were already in the ACS, the notices were modified in June 2000 to include a warning of possible lien filing. Those ACS accounts are then put in a special inventory for lien determinations if liens were not already filed and they meet the criteria. However, accounts that were shelved or are in the Queue do not receive the same notice, and lien determinations are not made.

¹² I.R.C., 26 U.S.C. § 7524, added by Taxpayer Bill of Rights 2, Pub. L. No. 104-168, title XII, Sec. 1204(a), 110 Stat. 1471 (1996).

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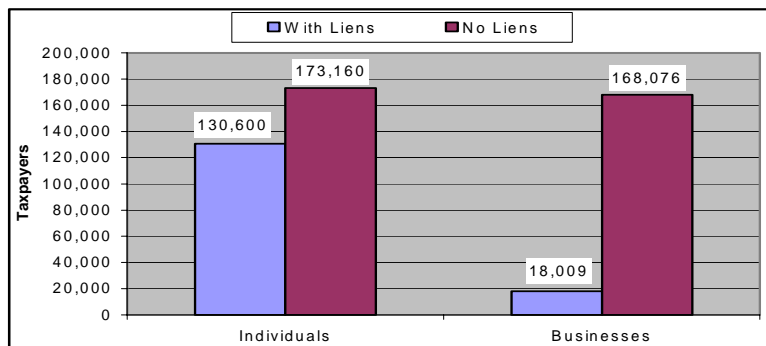
Liens are not being filed to protect the Government's interest on accounts left inactive in the Queue for extended times

Similar to cases closed as excess inventory, many cases are put back into, or left in, the Queue for extended times without having liens filed to protect the Government's interest. During FY 2001, the ACS put 1.1 million tax periods into the Queue, while the CFf put 141,000 tax periods there. Collection function management information reports show that, at the end of September 2001, there were 1.7 million tax periods totaling \$18.5 billion in the Queue, 35 percent of which had been there for 10 months or more.

Our analysis of 489,845 Queue cases totaling \$16.3 billion on the TRCAT file as of September 2000 showed that about 30 percent of the taxpayers in the Queue had liens filed on 1 or more delinquent periods. The other 70 percent of the taxpayers did not have liens filed on any of their delinquent tax periods. Further analysis showed that 20 percent of the cases (100,354 taxpayers with liabilities totaling \$2.2 billion) had been in the Queue for more than 1 year and were not protected by liens on any tax period.

Of the 489,845 taxpayers in the Queue at the time of our analysis, 38 percent were business accounts and 62 percent were individual accounts. As Figure 5 shows, 90 percent of the business accounts were not protected by liens, while 57 percent of the individual accounts had no liens filed to protect the Government's interest.

Figure 5: Comparison of Individual and Business Taxpayers in the Queue With and Without Liens

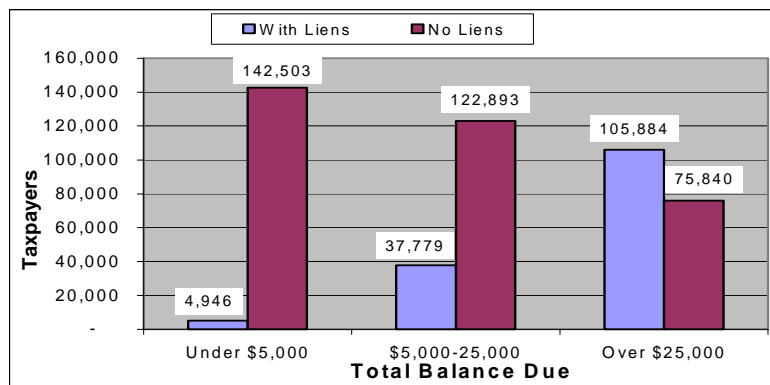


Source: TIGTA analysis of TRCAT file as of the end of September 2000.

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As Figure 6 shows, there were 122,893 taxpayers who owed from \$5,000 to \$25,000 (for a total of \$1.4 billion) that was not protected by tax liens. There were an additional 75,840 taxpayers who each owed more than \$25,000 (with liabilities totaling \$5.0 billion) that were not protected by tax liens.

Figure 6: Strata of Accounts in the Queue With and Without Liens



Source: TIGTA analysis of TRCAT file as of the end of September 2000.

See Appendix VII, Tables 7, 8, and 9, for more details of the stratification of accounts with and without liens by amounts owed, by how recently the delinquencies had been assessed, and by individual or business accounts.

The IRS' guidelines for filing liens on cases being put into the Queue have fluctuated in recent years. A December 1996 memorandum from the head of the Collection function instructed that liens *should* be filed on accounts over \$5,000 being transferred from the ACS to the Queue "since there is no other avenue to protect the government." On the other hand, the IRM for Customer Service employees issued January 1, 1999, in a section entitled "When NOT to File a Lien," stated that liens *should not* be filed on accounts being transferred from the ACS to the Queue. A June 1, 2000, revision to this IRM section removed "transfer to the Queue" as one of the reasons not to file a lien in the ACS. However, the section on "Lien Filing Determinations" was not concurrently revised to indicate that liens should be filed at that time. The Collection Process Improvements Steering Committee has recommended that the ACS be required to file liens on all cases over \$5,000 before they are transferred to the Queue.

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IRS research and our analyses show that tax liens are a cost-effective collection tool

SB/SE Division management advised that they do not have enough resources to file liens on all the cases that are shelved or left in the Queue. The direct fees paid to the counties and states for recording the liens are only a part of the cost of filing liens. There are also the following costs:

- The cost of controlling the liens on the Automated Lien System and related computer records to ensure they are released when appropriate.
- Since the enactment of the RRA 98, the clerical and direct mailing costs of sending lien filing notices to both spouses and representatives with powers of attorney. The IRS must also hold the cases open for 45 days and have staff available if the taxpayer responds to the lien filing.
- The potential added cost of appeals if the taxpayer protests the lien filing.

However, the IRS did not have analyses of the total costs of filing liens, including those costs to process appeals since enactment of the RRA 98.

Although it takes resources to file tax liens, the IRS' statistics and research show that resources put into lien filings have a positive return on investment. In addition, our analysis of a judgmental sample of these inactive accounts without liens shows that many of these taxpayers have assets that would potentially make the liens effective in producing revenue and increasing compliance.

An IRS research study concluded that tax liens are effective

A December 1998 District Office of Research and Analysis (DORA) report addressed the concern that "Objective information is needed for effective management of liens and to estimate the effects of policy changes on revenues collected." That report chronicled changes in lien filing instructions from 1991 to 1998. It also referred to a 1992 IRS survey conducted with 681 taxpayers who contacted the IRS specifically to pay a liability to secure the release of a lien. Of the taxpayers surveyed, 52 percent owed less than

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\$5,000 and, of those taxpayers owing less than \$5,000, 66 percent were seeking a release due to a real estate transaction such as buying, selling, or securing a home equity loan. The DORA report concluded that liens may be most effective against taxpayers who owe under \$5,000. However, the report noted that around the same time as the data used for their study, the IRS' Headquarters announced a change in lien filing criteria from \$2,000 to \$5,000. Analyzing the ratio of revenue returned for each dollar spent for lien fees, the DORA study reported it was about \$27:1 in 1992. After the first study, another study with a broader scope was started but had not been completed as of March 2002.

IRS management information reports have some lien data

While the IRS does not have information to determine the total costs of lien filing, some data are available on lien fees paid and dollars collected directly due to liens. The IRS' management information reports show the amount of money spent on lien fees decreased 46 percent, from \$6.8 million in FY 1998 to \$3.7 million in FY 2000. Concurrently, the amounts collected on delinquent accounts directly attributed to lien releases¹³ decreased 25 percent, from \$271 million in FY 1998 to \$202 million in FY 2000. While the dollars collected in a given year cannot be directly correlated to liens filed in that year, these data indicate a return of \$40:1 or higher in each of these years. This data indicates that investing more resources into lien filings will produce significantly more revenue.

Many taxpayers whose accounts were shelved or are in the Queue without tax liens have assets

We reviewed tax return data for a random sample of 80 individual and 80 business cases without liens from the Queue and CNC closing code 39 accounts, and determined that 60 percent of the individual taxpayers and 33 percent of the business taxpayers had real estate or other depreciable assets. For the individual taxpayers owing more than \$5,000, 42 percent deducted real estate taxes or mortgage

¹³ The IRS uses payment code 07 to identify payments made specifically to obtain release or discharge of Federal tax liens.

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interest on their tax returns. This shows that tax liens may be effective in a significant number of these inactive accounts. In addition, the other taxpayers may have other assets that were not shown on their tax returns. If tax liens were filed on these taxpayers, there is the likelihood they will contact the IRS to settle their delinquencies if they want to sell or re-finance their property.

There are several adverse impacts

The IRS' inability to continue collection efforts on the growing number of delinquent accounts left in the Queue or closed as excess inventory, combined with its not filing tax liens against these delinquent taxpayers, could result in billions of dollars going uncollected and may reduce taxpayer compliance. By not filing liens on these accounts, the IRS is not protecting the Government's interest or providing a viable incentive for taxpayers to arrange to pay their outstanding tax liabilities, either through full payment, installment agreements, or offers in compromise. Furthermore, this could result in inconsistent treatment of taxpayers.

Recommendation

4. The Commissioner, SB/SE Division, and the Commissioner, W&I Division, should use our results and results of the two Research Division studies on liens to develop a more uniform lien filing policy that will better protect the Government's interest and provide more consistent treatment of taxpayers. Options to consider include conducting a test to determine the cost and effectiveness of filing liens on inactive accounts. Analyze the inventory of accounts closed with closing code 39 and older accounts in the Queue and file liens on a sample of selected strata of cases (such as by age of account and dollar value, including some below the current \$5,000 threshold). See Appendix VII, Tables 4 – 9, for stratifications by dollars, age, and individual or business. Monitor the immediate and long-term results on these cases to determine the costs and benefits of filing liens on more cases. Alternatively,

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develop a computer routine to match the inventory of closing code 39 cases to Master File¹⁴ tax return data or information returns data to identify taxpayers whose returns indicate they have assets (rental property, real estate taxes or mortgage interest deductions, for example). File liens on a sample of these and monitor the results to determine the costs and benefits of filing liens on more cases.

Management's Response: SB/SE Division management agreed with our recommendation. Currently, they have two ongoing Research Division studies on liens. The SB/SE Division, in conjunction with the Research Division, will develop additional study components that consider the various parameters which would make lien filing more effective, such as the impact of lien filing on unable to contact or locate dispositions and the treatment stream applied to the case. They will also conduct a study to provide a better costing model for future lien filing which will include direct costs for generating and recording lien documents, support costs for certified mailing of collection due process notices and subsequent requests for hearings, and other down stream service issues encountered over the life of the filed notice. From this cost/benefit analysis, they can then develop a future policy based on total costs of lien filing and anticipated compliance benefits.

¹⁴ The Master File is the IRS' main computer system that stores various types of taxpayer account information. This includes individual, business, and employee plans and exempt organization data.

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Appendix I

Detailed Objective, Scope, and Methodology

Our overall objective was to determine whether Internal Revenue Service's (IRS) policies and procedures for lien filing protect the Government's interest and encourage compliance while ensuring fair and equitable treatment of taxpayers. To accomplish this, we:

- I. Evaluated IRS policies, procedures, goals, and monitoring of the lien program.
 - A. Reviewed changes to Internal Revenue Manual (IRM) procedures and other guidance issued in memoranda or other media.
 - B. Determined goals of the lien program based on review of documents and interviews of executives and analysts in the Small Business/Self-Employed (SB/SE) Division's Compliance function.
 - C. Analyzed the 1998 District Office of Research and Analysis project report on federal tax liens and determined what was done based on those results and conclusions.
 - D. Reviewed methods used by the IRS to monitor lien filing activity, costs, and benefits.
 - a) Analyzed Collection Reports 5000-07 (Business Master File¹ Collection Yield Report) and 5000-08 (Individual Master File Collection Yield Report) to determine amounts recorded with designated payment code 07 for Fiscal Years (FY) 1996 to 2001.
 - b) Analyzed Collection Reports 5000-23 (District Office Activity Report) to determine the number of liens filed by the Automated Collection System (ACS) and the Collection Field function (CFf) for FYs 1996 to 2001.
 - c) Analyzed Automated Financial System data to determine annual expenditures for lien fees for FYs 1996 to 2000.
 - E. Judgementally selected three area offices and interviewed four collection group managers in each of the three locations (Atlanta, Georgia; Chicago, Illinois; and San Jose, California) to determine their policies for filing liens and monitoring lien filings by revenue officers in their groups. We arbitrarily picked the three offices to get one from the east, one from the west, and one from the middle of the

¹ The Master File is the IRS' main computer system that stores various types of taxpayer account information. This includes individual, business, and employee plans and exempt organizations data.

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country. Managers were selected from those in the major cities based on availability at the time of our visits.

- F. Contacted a credit bureau and a lending institution to determine the impact of federal tax liens on taxpayers' credit ratings.

II. Determined whether the Collection Field function (CFf) was complying with established procedures for filing liens.

- A. Analyzed data from the national Delinquent Investigation/Account Listing (DIAL)² from December 2000 to determine the number of open CFf cases with and without liens in all districts. This analysis included 184,701 taxpayer accounts assigned to CFf groups in 33 district office codes (not including Puerto Rico and International).
- B. Judgmentally selected three area offices and reviewed a random sample of 90 CFf cases without liens that had been open at least 90 days as of the December 2000 DIAL with a total balance due over \$5,000 (30 each from the Atlanta, Chicago, and San Jose Area Offices) to determine if lien determinations were made and recorded on the Integrated Collection System (ICS) in accordance with policy. The samples were taken using a random number generator from the applicable population for each office: Atlanta – 1,530; Chicago – 1,683; and San Jose – 1,961. See Appendix VII, Table 1, for the comparable scope in each office.
- C. Analyzed a TRCAT³ extract as of the end of December 2000 that identified 9,097 taxpayer accounts closed by CFf with a currently not collectible (CNC) closing code other than code 39 (excess inventory) during the last 99 days of Calendar Year 2000. Reviewed a judgmental sample of 90 cases (30 from each of the 3 selected offices) from the 1,485 that did not have liens on all periods closed CNC during those 99 days. Cases were selected judgmentally to include only those closed as in-business corporations, unable to pay, unable to locate, or unable to contact since these closures generally require liens. We reviewed the ICS case summary screens and histories to see if lien determinations were made and documented in accordance with policy.
- D. Analyzed standard ICS/Entity reports entitled “CQMS-Timely-FTL-Determination” from 12 collection groups as of October 25, 2001, to identify the number of taxpayer accounts without liens on tax periods that had been assigned for more than 45 days with balances over \$5,000.

² The DIAL is a monthly computer-generated listing of all delinquent accounts and unfiled return investigations assigned to CFf groups.

³ TRCAT (Taxpayer Service and Returns Processing Categorization) is a monthly extract from the IRS' main computer file of all accounts with a balance due as of the date of the extract. Accounts are categorized for statistical analyses according to their current collection status.

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- III. Evaluated the potential to improve compliance and collect more revenue if liens are filed on some categories of accounts unable to be worked due to excess inventory.
- A. Analyzed Collection Reports 5000-2 (Taxpayer Delinquent Account Cumulative Report) to determine the number of unpaid accounts closed with CNC closing code 39 (excess inventory) in FYs 1996 to 2001.
 - B. Analyzed a TRCAT extract as of the end of FY 2000 of 938,032 taxpayer accounts closed with a CNC closing code 39 (excess inventory). We limited further analysis of these to the 791,176 taxpayer accounts in which all delinquent tax periods had been closed with closing code 39.
 - C. Analyzed a TRCAT extract as of the end of FY 2000 of 489,845 taxpayer accounts in the Queue.⁴
 - D. Determined the number and value of accounts in various dollar strata, age in status, and fact of lien filing for the accounts in steps III.B and III.C above. We categorized the accounts by whether the Government's interest was fully protected with liens on all delinquent periods, partially protected with liens on some of the delinquent periods, or not protected with liens on any of the delinquent periods.
 - E. Researched Master File tax return information for a stratified random sample of 160 taxpayers to determine how many of these taxpayers' latest tax returns indicate they have assets (deductions for property taxes, mortgage interest, depreciation, etc). The sample of 80 individual taxpayers and 80 business taxpayers was selected (40 individuals and 40 business cases) from the Queue and (40 individuals and 40 business cases) from the CNC closing code 39 cases in above steps III.C and III.B, respectively. The sample was selected from the accounts identified in step III.D as having no liens filed on any of the delinquent tax periods. Ten cases were randomly selected for each type using a random number generator from the dollar stratum: \$0 – \$5,000; \$5,000.01 – \$25,000, \$25,000.01 – \$100,000, and over \$100,000.

⁴ The Queue is an automated holding file of balance due accounts that were not resolved through written notices or telephone calls by the ACS. The Queue holds cases for future assignment to revenue officers based on priority as workload permits.

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Appendix II

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Appendix III

Report Distribution List

Commissioner N:C
Deputy Commissioner N:DC
Deputy Commissioner, Small Business/Self-Employed Division S
Deputy Commissioner, Wage and Investment Division W
Director, Compliance, Small Business/Self-Employed Division S:C
Director, Compliance Policy, Small Business/Self-Employed Division S:C:CP
Director, Filing and Payment Compliance, Small Business/Self-Employed Division S:C:CP:FP
Chief Counsel CC
National Taxpayer Advocate TA
Director, Legislative Affairs CL:LA
Director, Office of Program Evaluation and Risk Analysis N:ADC:R:O
Office of Management Controls N:CFO:F:M
Audit Liaisons:
 Commissioner, Small Business/Self-Employed Division S:C:CP:I
 Commissioner, Wage and Investment Division W:CAS:PCS

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Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. These benefits will be incorporated into our Semiannual Report to the Congress.

Type and Value of Outcome Measure:

- Increased Revenue – Potential; approximately \$6.5 million was not protected by the timely filing of federal tax liens on 62 accounts open in the Collection Field function (CFf) (see page 5). However, it should be recognized that it is likely that some of these liabilities would be collected even without liens, while some will still not be collected even if liens are filed.

Methodology Used to Measure the Reported Benefit:

We selected a random sample of 90 open CFf accounts from the December 2000 Delinquent Investigation/Account Listing that had been open at least 90 days with a total balance due over \$5,000, but did not have liens filed on any of the delinquent periods. We then reviewed the case histories and Integrated Collection System (ICS)¹ control data as of December 31, 2000, to determine if lien determinations were made in accordance with policy.

Type and Value of Outcome Measure:

- Increased Revenue – Potential; approximately \$2.0 million was not protected by the filing of federal tax liens on 55 currently not collectible (CNC) accounts with a balance due over \$5,000² (see page 6). However, it should be recognized that it is likely that some of these liabilities would be collected even without liens, while some will still not be collected even if liens are filed.

Methodology Used to Measure the Reported Benefit:

We selected a judgmental sample of 90 cases closed as CNC from the December 2000 TRCAT³ file to determine if liens were being filed on CNC accounts. Cases were selected from those

¹ All cases assigned to the CFf are controlled on the ICS. The ICS is an automated system used to reduce paperwork and record activity on investigations of delinquent accounts.

² This includes 28 cases over \$5,000 of the 40 that did not address lien filing plus 27 cases with various reasons not included in Internal Revenue Manual (IRM) exceptions for filing liens.

³ TRCAT (Taxpayer Service and Returns Processing Categorization) is a monthly extract from the IRS' main computer file of all accounts with a balance due as of the date of the extract. Accounts are categorized for statistical analyses according to their current collection status.

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closed as in-business corporations, unable to pay, unable to locate, or unable to contact, since the IRM generally requires liens for these closures. We then reviewed the ICS case summary screens and case histories to see if lien determinations were made and documented in accordance with policy.

Type and Value of Outcome Measure:

- Increased Revenue – Potential; approximately \$2.5 billion is not being protected by the filing of liens on 233,583 shelved taxpayer accounts over \$5,000 (see page 13). However, it should be recognized that it is likely that some of these liabilities would be collected even without liens, while some will still not be collected even if liens are filed. Furthermore, the Internal Revenue Service (IRS) will incur additional costs to process lien filings, mail lien notifications, and provide staffing to deal with the taxpayers who respond to the lien filings. As stated in the audit report, information to quantify these costs is not available.

Methodology Used to Measure the Reported Benefit:

We analyzed 791,176 shelved taxpayer accounts on the TRCAT file as of September 2000 to determine if the Government's interest was protected with liens on some or all of the delinquent periods, or not protected with liens on any of the delinquent periods. The total balance due on the 233,583 accounts with no liens was \$3.0 billion. We reduced this amount by \$500 million that was reported in the prior Treasury Inspector General for Tax Administration report⁴ covering 57,343 accounts closed by the Automated Collection System (ACS)⁵ from June to December 2000.

Type and Value of Outcome Measure:

- Increased Revenue – Potential; approximately \$6.4 billion is not being protected by the filing of liens on 198,733 cases over \$5,000 in the Queue⁶ (see page 18). However, it should be recognized that it is likely that some of these liabilities would be collected even without liens, while some will still not be collected even if liens are filed. Furthermore, the IRS will incur additional costs to process lien filings, mail lien notifications, and provide staffing to deal

⁴ *Letter Report: Write-off of Taxes Owed Resulted in Inequitable Treatment of Taxpayers* (Reference Number 2001-40-151, dated August 2001).

⁵ The ACS is an integral part of the IRS process for collecting unpaid taxes and securing unfiled tax returns from both individual and business taxpayers. When taxpayers do not comply with the IRS' computer-generated notices, ACS employees attempt to contact them by telephone to secure payments or unfiled returns. The ACS is the computer system that assigns these cases to the individual tax examiners.

⁶ The Queue is an automated holding file of balance due accounts that were not resolved through written notices or telephone calls by the ACS. The Queue holds cases for future assignment to revenue officers based on priority as workload permits.

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with the taxpayers who respond to the lien filings. As stated in the audit report, information to quantify these costs is not available.

Methodology Used to Measure the Reported Benefit:

We analyzed a TRCAT extract as of September 2000 of 489,845 taxpayer accounts in the Queue. We evaluated the accounts to determine if the Government's interest was protected with liens on some or all of the delinquent periods, or not protected with liens on any of the delinquent periods. The amounts included here are for the accounts in which the total balance due is \$5,000 or more and there were no liens on any tax periods.

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Appendix V

Overview of the Collection Process

The collecting mission of the Internal Revenue Service (IRS) is to promptly collect the proper amount of federal tax from all persons who have not paid tax and/or filed returns as required by law and to encourage future compliance with the law. The IRS collecting process involves computer-generated notices, telephone contacts, and personal field contacts.

The process begins with an assessment, which is a formal bookkeeping entry that the IRS makes to record the amount of tax, penalty, and interest charged to a taxpayer's account. Taxpayers essentially assess their own tax liabilities when they file an original or amended tax return. Also, the IRS may assess additional tax liabilities through various compliance efforts, such as computerized checks or audits of tax returns.

If taxpayers do not immediately pay these tax assessments, as well as any related penalty and interest assessments, the IRS is to send collection notices to the taxpayers. The notice process starts shortly after the IRS records the assessments with a collection notice, known as a balance due notice. If taxpayers do not fully pay all assessed amounts after this balance due notice is sent, the IRS is to send up to 3 additional notices at 5-week intervals. The last notice of the series warns the taxpayer of possible collection actions, including filing of tax liens. If taxpayers have not fully paid the assessed amounts or provided information to explain why payment cannot be made after these notices are sent, the IRS may use other means to collect the unpaid assessments, such as telephone calls and visits by IRS staff.

Depending on the type and amount of the liability, some delinquent accounts are assigned to the Automated Collection System (ACS) where employees attempt to speak with the taxpayer by telephone. If the taxpayer cannot pay all that is owed, ACS employees have the authority to set up an installment agreement for the taxpayer to pay the tax over a period of time. They also have the authority to take certain actions when necessary to collect the balance due or to protect the Government's interest, including serving levies on the taxpayer's bank accounts or salary and filing tax liens against the taxpayer's property. ACS employees also have the authority to report an account as currently not collectible if the taxpayer cannot pay due to financial hardship or cannot be located or contacted.

Certain higher priority¹ accounts bypass the ACS and are assigned directly to the Collection Field function (CFf), where revenue officers contact the taxpayers, or are transferred to the Queue (an automated holding file) to be requested later by the CFf for assignment to revenue officers. Other cases that are not resolved by the ACS are also reassigned to the Queue or the CFf for contact by revenue officers.

¹ The collection potential of each delinquent account is scored by computer. Accounts meeting certain criteria may bypass the ACS for direct assignment to the CFf.

The Internal Revenue Service Should Modify Its Federal Tax Lien Practices to Treat Taxpayers More Equitably and Better Protect the Government's Interest

Medium priority cases that are not resolved by the ACS are assigned to the Queue. These cases are held in an inactive status until workload levels in the CFf permit assignment or a change in the circumstances of the case causes it to be reassigned to the ACS or a revenue officer. For example, a new balance due account on a different tax year can cause the case to be reassigned to an active status.

Previously, cases could remain in the Queue until the 10-year statute of limitations expired. In 1999, the IRS began systemically removing older and lower priority cases from the Queue using currently not collectible closing code 39. No lien determinations are made on these accounts when they are removed from the Queue.

All cases assigned to the CFf are controlled on the Integrated Collection System (ICS). The ICS is an automated system used to reduce paperwork and record all activity on investigations of delinquent accounts. The Entity Management Information System portion of the ICS/Entity Integrated System uses the data from the ICS for case management, report compilation, and management information.

To assist the IRS in collecting unpaid taxes from taxpayers who do not pay, the Congress gave the IRS authority to take certain actions to protect the Government's interest or secure payment from other sources. After the required notices have been sent requesting payment and warning the taxpayer of other possible actions, the IRS can file a Notice of Federal Tax Lien or can levy or seize taxpayers' assets. A levy is used to take possession of funds a third party owes the taxpayer, such as wages, funds in a bank, or accounts receivable. A seizure is used to take possession of property owned by the taxpayer, such as a vehicle, boat, or real estate. Filing a Notice of Federal Tax Lien does not take any assets or deprive the taxpayer of the use of the assets like a levy or seizure does. The Notice of Federal Tax Lien simply protects the Government's interest by publicly recording the debt owed as a notice to possible future creditors. Filing a Notice of Federal Tax Lien may prevent a taxpayer from selling assets with clear title or obtaining additional financing without settlement of their tax debts.

The Internal Revenue Service Should Modify Its Federal Tax Lien Practices to Treat Taxpayers More Equitably and Better Protect the Government's Interest

Appendix VI

Changes to Lien Filing Guidelines

Prior to Fiscal Year (FY) 1997, as a general rule, liens were to be filed on most accounts above \$5,000. However, in December 1996, the head of the Collection function issued a memorandum modifying lien filing criteria for that fiscal year because of current budgetary constraints. Included in the revised procedures were the following:

- Liens should not be filed when entering into streamlined installment agreements. For non-streamlined agreements, liens should be filed only if the taxpayer owns real property.
- Liens should not be filed when reporting accounts as currently not collectible (CNC) because of inability to locate the taxpayer or because of hardship unless the taxpayer owns real property.
- The Automated Collection System (ACS) should file liens when closing accounts with balances due over \$5,000 as unable to contact. The instructions did not address unable to contact closures by the Collection Field function (Cff).
- Liens should not be filed on out-of-business corporations unless there are significant assets.
- Liens should be filed when transferring cases with balances due over \$5,000 to the Queue¹ since there is no other avenue to protect the Government.

The December 1996 memorandum stated that the revised procedures were effective only until the end of FY 1997. However, in February 1998 when it was noticed that lien filing activity did not return to pre-FY 1997 levels, Collection function headquarters issued another memorandum reminding the field that the deviations from Internal Revenue Manual (IRM) procedures granted in the December 1996 memorandum were effective only through FY 1997 and had, as of then, become void.

In March 1999, the head of the Collection function issued a memorandum entitled “Bringing the Collection Inventory into Balance with Resources – Casework Priorities and Internal Revenue Manual Deviations.” In it, he established a hierarchy of six caseload priorities for working inventories, as well as procedures to reduce inventories in those districts where inventory exceeded available resources. The memorandum authorized raising Queue cutoff scores, returning cases to the Queue, and closing cases with a balance due below a specified amount as currently not collectible (CNC), using closing code 39, if they could not be returned to the Queue for systemic reasons. These cases were to be closed without filing a lien and without taking normal investigative actions.

¹ The Queue is an automated holding file of balance due accounts that were not resolved through written notices or telephone calls by the ACS. The Queue holds cases for future assignment to revenue officers based on priority as workload permits.

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IRM 5.12 (Federal Tax Liens Handbook) was issued on February 22, 2000, consolidating all current lien guidelines. On October 6, 2000, the Director, Filing and Payment Compliance, Small Business/Self-Employed Division, issued a memorandum to all Collection function employees advising them that all prior memoranda that had been issued to the CFf providing procedural guidelines/instructions were obsolete as of September 30, 2000. The expectation was that updates to the IRM had been completed.

The Internal Revenue Service Should Modify Its Federal Tax Lien Practices to Treat Taxpayers More Equitably and Better Protect the Government's Interest

Appendix VII

Statistical Data Related to Liens

Table 1 – Number of Taxpayer Accounts in Collection Field Offices With and Without Liens

District	Total Taxpayers Assigned to Groups	Taxpayers With No Liens Filed			
		Taxpayers Without Liens	% Of Taxpayers Without Liens	Taxpayers with a Balance Due Greater Than \$5,000 and Assigned For More Than 90 Days	% Of Taxpayers with a Balance Due Greater Than \$5,000 and Assigned For More Than 90 Days
1	3,469	1,554	45%	530	15%
2	4,658	2,681	58%	772	17%
3	7,133	3,515	49%	1,523	21%
4	5,748	3,279	57%	1,260	22%
5	4,677	2,509	54%	1,035	22%
6	4,842	2,375	49%	1,079	22%
7	6,046	2,721	45%	1,355	22%
8	5,915	2,815	48%	1,346	23%
9	2,900	1,699	59%	700	24%
10	5,174	2,676	52%	1,305	25%
11	6,319	3,114	49%	1,608	25%
12	11,760	5,444	46%	3,015	26%
13	4,556	2,672	59%	1,171	26%
14	2,481	1,369	55%	639	26%
15	3,788	2,152	57%	1,016	27%
16	6,216	3,447	55%	1,683	27%
17	6,339	3,470	55%	1,730	27%
18	9,040	5,409	60%	2,558	28%
19	5,340	3,127	59%	1,542	29%
20	7,254	3,995	55%	2,116	29%
21	3,483	1,980	57%	1,016	29%
22	7,254	4,256	59%	2,126	29%
23	5,235	2,964	57%	1,538	29%
24	6,143	3,425	56%	1,809	29%
25	4,787	2,770	58%	1,412	29%
26	6,508	3,411	52%	1,961	30%
27	2,431	1,184	49%	753	31%
28	4,811	2,867	60%	1,530	32%
29	5,609	3,303	59%	1,811	32%
30	6,357	3,503	55%	2,120	33%
31	3,508	2,144	61%	1,190	34%
32	5,182	2,874	55%	1,758	34%
33	9,738	6,643	68%	3,662	38%
Total	184,701	101,347	55%	50,669	27%
Offices selected for review are shaded					

Source: Treasury Inspector General for Tax Administration (TIGTA) analysis of December 2000 Delinquent Investigation/Account Listing.

The Internal Revenue Service Should Modify Its Federal Tax Lien Practices to Treat Taxpayers More Equitably and Better Protect the Government's Interest

Table 2 – Number of Taxpayer (TP) Accounts Without Liens on Standard Integrated Collection System (ICS)/Entity Reports for 12 Groups

Group	Total TPs in Inventory	TP Count on ICS/Entity FTL Report	% of TPs on Report to Total in Group
1	597	109	18%
2	515	125	24%
3	310	79	25%
4	601	154	26%
5	454	117	26%
6	500	132	26%
7	598	169	28%
8	686	197	29%
9	438	147	34%
10	597	207	35%
11	801	315	39%
12	471	208	44%
Total	6,568	1,959	30%
Average		163	

Source: TIGTA analysis of ICS/Entity system query entitled "CQMS-Timely-FTL-Determination" for each group as of October 25, 2001.

Table 3 – Number and Value of Taxpayer Accounts Shelved Each Fiscal Year

Fiscal Year	CFF ¹	ACS ²	Queue ³	Other	Total		
	Taxpayers	Taxpayers	Taxpayers	Taxpayers	Taxpayers	Periods	Amount
1996	2,124	15	37	0	2,176	7,737	\$ 27,593,506
1997	993	47	112	0	1,152	3,705	14,997,789
1998	1,695	4,794	126	1	6,616	13,702	66,708,715
1999	26,130	388,907	10,878	7	425,922	790,729	1,961,114,746
2000	66,537	659,686	152,166	10	878,399	1,942,929	6,183,969,909
2001	18,070	481,569	317,924	6	817,569	1,720,683	5,290,098,590
Total	115,549	1,535,018	481,243	24	2,131,834	4,479,485	\$13,544,483,255

Source: Collection Reports 5000-2 for FYs 1996 to 2001.

¹ CFF is the Collection Field function.

² ACS is the Automated Collection System.

³ The Queue is an automated holding file of balance due accounts that were not resolved through written notices or telephone calls by the ACS. The Queue holds cases for future assignment to revenue officers based on priority as workload permits.

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Table 4 – Stratification of Shelved Accounts by Amounts Owed and Lien Filing

Total Dollars Owed by Taxpayer	Taxpayers				Dollars (in millions)			
	Total	Protected ¹	Not Protected ²		Total	Protected ¹	Not Protected ²	
Under \$5,000	468,426	15,397	453,029	97%	\$1,183	\$ 43	\$1,140	96%
\$5,000 - \$25,000	291,016	68,574	222,442	76%	3,079	946	2,134	69%
Over \$25,000	31,734	20,593	11,141	35%	2,851	1,999	853	30%
Total	791,176	104,564	686,612	87%	\$7,113	\$2,988	\$4,126	58%

¹ This is on a taxpayer basis and includes taxpayers that are fully protected (liens filed on all tax periods) or partially protected (liens filed on some of the tax periods).

² This is on a taxpayer basis where liens were not filed on any tax period.

Source: TIGTA analysis of TRCAT⁴ file as of the end of September 2000.

Table 5 – Stratification of Shelved Accounts Over \$5,000 by Age of Assessment and Lien Filing

Age of Most Recent Assessment	Taxpayers						Dollars (in millions)					
	Total		Protected		Not Protected		Total		Protected		Not Protected	
			Total	% ¹	Total	% ²			Total	% ¹	Total	% ²
Less than 1 year	9,952		1,590	16%	8,362	84%	\$ 346		\$ 127	37%	\$ 219	63%
1 - 2 years	39,024		4,556	12%	34,468	88%	876		300	34%	576	66%
2 - 3 years	57,075		6,777	12%	50,298	88%	1,017		360	35%	657	65%
3 - 4 years	41,591		7,888	19%	33,703	81%	709		323	46%	386	54%
4 - 5 years	36,257		9,993	28%	26,264	72%	635		359	57%	276	43%
Over 5 years	138,851		58,363	42%	80,488	58%	2,348		1,476	63%	872	37%
Totals	322,750		89,167	28%	233,583	72%	\$5,931		\$2,945	50%	\$2,986	50%

¹ Percentage of total taxpayers or Aggregate Total Balance protected by liens. This is on a taxpayer basis and includes taxpayers that are fully or partially protected.

² Percentage of total periods or Aggregate Total Balance not protected by liens on any tax period of the taxpayer.

Source: TIGTA analysis of TRCAT file as of the end of September 2000.

Table 6 – Breakdown of Shelved Accounts by Individual versus Business Accounts

Lien Filing ¹	Taxpayers			Dollars (in millions)		
	Individual	Business	Total	Individual	Business	Total
Fully Protected	64,615	13,774	78,389	\$1,730	\$309	\$2,039
Partially Protected	21,199	4,976	26,175	754	194	948
Not Protected	551,433	135,179	686,612	3,350	776	4,126
Total	637,247	153,929	791,176	\$5,835	\$1,279	\$7,114

¹ Based on a taxpayer's case. Liens filed on all tax periods for the taxpayer is considered fully protected, liens filed on some tax periods, but not all, is considered partially protected, and no liens on any tax period is considered not protected.

Source: TIGTA analysis of TRCAT file as of the end of September 2000.

Note: Some dollar columns or rows may not add exactly due to rounding.

⁴ TRCAT (Taxpayer Service and Returns Processing Categorization) is a monthly extract from the IRS' main computer file of all accounts with a balance due as of the date of the extract. Accounts are categorized for statistical analyses according to their current collection status.

The Internal Revenue Service Should Modify Its Federal Tax Lien Practices to Treat Taxpayers More Equitably and Better Protect the Government's Interest

Table 7 – Stratification of Queue Accounts by Amounts Owed and Lien Filing

Total Dollars Owed by Taxpayer	Taxpayers				Dollars (in millions)			
	Total	Protected ¹	Not Protected ²		Total	Protected ¹	Not Protected ²	
Under \$5,000	147,449	4,946	142,503	97%	\$ 345	\$ 14	\$ 331	96%
\$5,000 - \$25,000	160,672	37,779	122,893	76%	1,939	564	1,375	71%
\$Over 25,000	181,724	105,884	75,840	42%	14,035	9,036	4,999	36%
Total	489,845	148,609	341,236	70%	\$16,319	\$9,614	\$6,705	41%

¹ This is on a taxpayer basis and includes taxpayers that are fully protected (liens filed on all tax periods) or partially protected (liens filed on some of the tax periods).

² This is on a taxpayer basis where liens were not filed on any tax period.

Source: TIGTA analysis of TRCAT file as of the end of September 2000.

Table 8 - Stratification of Queue Accounts Over \$5,000 by Age of Assessment and Lien Filing

Age of Most Recent Assessment	Taxpayers						Dollars (in millions)			
	Total	Protected Total	% ¹	Not Protected Total	% ²		Total	Protected Total	% ¹	Not Protected Total % ²
Less than 1 yr	42,584	8,716	20%	33,868	80%		\$2,141	\$ 920	43%	\$1,221 57%
1 - 2 years	83,553	17,408	21%	66,145	79%		3,581	1,372	38%	2,210 62%
2 - 3 years	52,421	16,205	31%	36,216	69%		2,529	1,317	52%	1,212 48%
3 - 4 years	40,295	18,235	45%	22,060	55%		1,925	1,265	66%	660 34%
4 - 5 years	29,753	17,459	59%	12,294	41%		1,490	1,113	75%	377 25%
Over 5 years	93,790	65,640	70%	28,150	30%		4,307	3,613	84%	694 16%
Totals	342,396	143,663	42%	198,733	58%		\$15,973	\$9,600	60%	\$6,374 40%

¹ Percentage of total taxpayers or Aggregate Total Balance protected by liens. This is on a taxpayer basis and includes taxpayers that are fully or partially protected.

² Percentage of total modules or Aggregate Total Balance not protected by liens on any tax period of the taxpayer.

Source: TIGTA analysis of TRCAT file as of the end of September 2000.

Table 9 – Breakdown of Queue Accounts by Individual versus Business Accounts

Lien Filing ¹	Taxpayers			Dollars (in millions)		
	Individual	Business	Total	Individual	Business	Total
Fully Protected	82,342	8,665	91,007	\$ 4,851	\$ 227	\$5,077
Partially Protected	48,258	9,344	57,602	4,046	490	4,536
Not Protected	173,160	168,076	341,236	5,053	1,651	6,705
Total	303,760	186,085	489,845	\$13,950	\$2,368	\$16,318

¹ Based on a taxpayer's case. Liens filed on all tax periods for the taxpayer is considered fully protected, liens filed on some tax periods, but not all, is considered partially protected, and no liens on any tax period is considered not protected.

Source: TIGTA analysis of TRCAT file as of the end of September 2000.

Note: Some dollar columns or rows may not add exactly due to rounding.

The Internal Revenue Service Should Modify Its Federal Tax Lien Practices to Treat Taxpayers More Equitably and Better Protect the Government's Interest

Appendix VIII

Management's Response to the Draft Report



SMALL BUSINESS/SELF-EMPLOYED DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

MAY 24 2002

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: *JG Kehoe* Joseph G. Kehoe
Commissioner, Small Business/Self-Employed Division

SUBJECT: Draft Audit Report – The Internal Revenue Service Should
Modify Its Federal Tax Lien Practices to Treat Taxpayers
More Equitably and Better Protect the Government's Interest
(Audit # 200130004)

We agree with your recommendations on our tax lien practices and your assertion that we can improve them. We must, however, take a balanced approach when making these improvements.

We developed our lien filing policy and guidelines over a number of years in response to inventory, budget, and legislative issues. During this period, our collection processes have changed dramatically. In the past, we could have reasonably expected to work and resolve most of the cases in our inventory. Previously, our analysis of the taxpayer's circumstances led to a straightforward, fact-based decision to file or not to file a notice of lien. Today our high inventory levels and more complex processing require executive decisions on the best way to balance a fair lien filing program with rising costs and our inability to work all delinquent accounts.

We agree we should base our lien filing policy on data that supports the benefit of lien filing in various account segments. If we can determine how to focus lien filing on selected segments where it will have the most benefit on cost and compliance, then we can improve our overall service to the public.

While we agree your corrective actions may enhance revenue, they are not easily measured. As you state in the report, we will likely collect some delinquent accounts without liens and we will not collect others even if liens are filed. We will continue to expend considerable resources to process, file, and respond to future lien filings.

The Internal Revenue Service Should Modify Its Federal Tax Lien Practices to Treat Taxpayers More Equitably and Better Protect the Government's Interest

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RECOMMENDATION 1

The Director, Compliance, SB/SE Division, should clarify and ensure the consistency of the IRM on these issues:

- a. Liens should generally be filed even when assets have not been identified if the individual taxpayer or entity still exists.
- b. Liens should be filed on accounts closed as unable to contact or unable to locate by the Automated Collection System (ACS) as well as the Collection Field function (CFf).

These clarifications should point out that Federal tax liens also attach to future property and therefore can be filed even if current assets have not been identified and the taxpayer may not have been located. Liens may impact the taxpayers even if they have moved or have no assets at the time. If the taxpayer is not cooperative in responding to IRS efforts at establishing contact, the tax lien may provide the stimulus for the taxpayer to establish communication in the future.

ASSESSMENT OF CAUSE

We did not always file liens when the individual or entity did not have identified assets or their tax account was closed as unable to locate or contact.

CORRECTIVE ACTION

We agree we should file liens on accounts that meet the \$5,000 balance criterion as stated in IRM 5.12.1.13 and IRM 5.16.1.1 when case investigation indicates currently not collectible is the appropriate disposition. We are revising ACS procedures in IRM 5.19.4 to bring them into conformance with the provisions in both the lien handbook and CFf procedures for currently not collectible accounts. This includes the unable to contact and unable to locate dispositions noted in (b) above.

IMPLEMENTATION DATE

January 1, 2003

RESPONSIBLE OFFICIAL

Director, Filing and Payment Compliance, Small Business/Self-Employed Division

MONETARY BENEFIT

Not measurable

CORRECTIVE ACTION MONITORING PLAN

The Program Manager, Technical and Insolvency, will tell the Director, Filing and Payment Compliance, Small Business/Self-Employed Division if the corrective action is delayed.

The Internal Revenue Service Should Modify Its Federal Tax Lien Practices to Treat Taxpayers More Equitably and Better Protect the Government's Interest

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RECOMMENDATION 2

The Commissioner, SB/SE Division, and the Commissioner, W&I Division, should send messages to all CFF and ACS employees and managers alerting them to lien filing criteria and discuss current lien guidelines in group meetings and in the next Continuing Professional Education sessions.

ASSESSMENT OF CAUSE

Employees have varying understandings of lien filing criteria.

CORRECTIVE ACTION

SB/SE and W&I Compliance will send a memorandum to CFF and ACS employees and managers advising them to review lien filing criteria. We will also suggest managers of CFF and ACS discuss lien filing criteria and guidelines with their employees.

IMPLEMENTATION DATE

January 1, 2003

RESPONSIBLE OFFICIALS

Director, Filing and Payment Compliance, Small Business/Self-Employed Division
Director, Filing and Payment Compliance, Wage and Investment Division

MONETARY BENEFIT

Not measurable

CORRECTIVE ACTION MONITORING PLAN

The appropriate Program Managers will advise the Director, Filing and Payment Compliance, Small Business/Self-Employed Division and/or the Director, Filing and Payment Compliance, Wage and Investment Division of any delays.

RECOMMENDATION 3

The Commissioner, SB/SE Division should educate managers on how to find and use the Integrated Case Processing (ICS)/Entity standard query/report, and include instructions and a requirement in the IRM that managers use the report periodically (e.g., monthly or bi-monthly) to identify cases without liens and to discuss or share the lists with revenue officers assigned the cases.

ASSESSMENT OF CAUSE

Some of the managers interviewed by TIGTA were not familiar with or did not use the lien filing and determination due date features built into ICS/Entity.

CORRECTIVE ACTION

- A. As ICS/Entity was implemented, all managers received training, which covered how to find and use the standard query/report. The memorandum in the corrective action for Recommendation 2 will also emphasize to managers that they should use current information in the IRM and the ICS/Entity lien filing indicators and determination due dates when they assess employee case

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management. We will ask managers who need training in the use of this system to notify their immediate managers so we can provide additional training.

- B. As noted above, we will also use the memorandum to advise managers and employees that timely lien determinations and filings, where appropriate, are essential components of case management. We will emphasize that employees are expected to make timely determinations and managers will consider these actions when assessing employee case management performance.

IMPLEMENTATION DATE

- A. October 1, 2002
- B. January 1, 2003

RESPONSIBLE OFFICIAL

Director, Filing and Payment Compliance, Small Business/Self-Employed Division

MONETARY BENEFIT

Not measurable

CORRECTIVE ACTION MONITORING PLAN

The Program Manager, Collection General Processes will tell the Director, Filing and Payment Compliance, Small Business/Self-Employed Division of any delays.

RECOMMENDATION 4

The Commissioner, SB/SE Division, and the Commissioner, W&I Division, should use our results and results of the two Research Division studies on liens to develop a more uniform lien filing policy that will better protect the Government's interest and provide more consistent treatment of taxpayers. Options to consider include conducting a test to determine the cost and effectiveness of filing liens on inactive accounts. Analyze the inventory of accounts closed with closing code 39 and older accounts in the queue and file liens on a sample of selected strata of cases (such as by age of account and dollar value, including some below the current \$5,000 threshold). See Appendix VII, Tables 4 – 9, for stratifications by dollars, age, and individual or business. Monitor the immediate and long-term results on these cases to determine the costs and benefits of filing liens on more cases. Alternatively, develop a computer routine to match the inventory of closing code 39 cases to Master File tax return data or information returns data to identify taxpayers whose returns indicate they have assets (rental property, real estate taxes or mortgage interest deductions, for example). File liens on a sample of these and monitor the results to determine the costs and benefits of filing liens on more cases.

ASSESSMENT OF CAUSE

We developed the current lien filing criteria to meet the circumstances at the time they were issued. As our inventory increases and resource become more limited, we needed to refine our model to reflect these realities.

The Internal Revenue Service Should Modify Its Federal Tax Lien Practices to Treat Taxpayers More Equitably and Better Protect the Government's Interest

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CORRECTIVE ACTION

We agree we need to conduct studies incorporating controlled methodology for a future lien filing policy. We presently have two ongoing Research Division studies on liens.

We will, in conjunction with Research, develop additional study components that consider the various parameters which would make lien filing more effective, such as:

- the impact of lien filing on unable to contact or locate dispositions
- the treatment stream applied to the case (ACS, CFF, queue, etc.).

We will also conduct a study to provide a better costing model for future lien filing that includes:

- Direct costs for generating and recording lien documents, including recordation fees
- Support costs for certified mailing of collection due process notices and subsequent requests for hearing
- Other down stream service issues encountered over the life of the filed notice.

From this cost/benefit analysis, we can develop a future policy based on total costs of lien filing and anticipated compliance benefits.

IMPLEMENTATION DATE

To be completed in the following phases:

- July 1, 2003 – define and implement test
- July 1, 2004 – complete testing
- December 1, 2004 – analyze results and develop future policy

RESPONSIBLE OFFICIAL

Director, Filing and Payment Compliance, Small Business/Self-Employed Division
Director, Filing and Payment Compliance, Wage and Investment Division

MONETARY BENEFIT

Not measurable

CORRECTIVE ACTION MONITORING PLAN

The appropriate Program Managers will advise the Director, Filing and Payment Compliance, Small Business/Self-Employed Division and/or the Director, Filing and Payment Compliance, Wage and Investment Division of any delays.

Please call Joseph R. Brimacombe, Director, Compliance Policy, Small Business/Self-Employed, at (202) 283-2150 if you have any questions.